UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 08 MAR 26 AM 10: 29

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

BY ____ DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Raul MAGADAN,** Defendant	)	Magistrate Docket No. '08 MJ 09 28 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 25, 2008** within the Southern District of California, defendant, **Raul MAGADAN,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF MARCH 2008

William McCurine, Jr.
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Raul MAGADAN

PROBABLE CAUSE STATEMENT

On March, 25 2008, Border Patrol Agent K. Ayala was assigned line watch duties in the Chula Vista Area of Operations. At approximately 11:00 a.m., Agent Ayala was advised by Border Patrol Agent R. Chen Yin of an individual located near an area known to Border Patrol Agents as, "End of the secondary fence". This area is located approximately four miles east from the Otay Mesa, California Port of Entry and approximately one hundred yards north of the United States/Mexico international boundary. Agent Ayala responded to the area and observed one individual later identified as defendant Raul MAGADAN, sitting along side the secondary fence. Agent Ayala identified herself as a Border Patrol Agent and questioned the defendant as to his citizenship and nationality. The defendant stated he was a citizen and national of Mexico with no immigration documents that would allow him to remain in the United States legally. At approximately 11:10 a.m., Agent Ayala placed the defendant under arrest and had him transported to the Chula Vista Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 20, 2008** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

James E. Bailey
Senior Patrol Agent

William McCurine Jr.
U.S. Magistrate Judge

3/26/08
Date/Time